REMARKS/ARGUMENTS

1.   Claim Rejections – 35 U.S.C. § 103 (a)

Claims 22-31 and 37-42 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Burns et al. (U.S. 6,018,747, hereafter Burns), in view of Blandford (U.S. 6,470,449, hereafter Blandford). In this Office Action, the Examiner stated:

> In response to applicant's arguments filed 02/09/2009, the arguments have been considered but are deemed moot in light of the new grounds of rejection presented above which was necessitated by amendment.

Although the Ferrat is no longer cited as a reference, the Office Action is replete with references to sections of Ferrat.   To the extent Applicant is able to discern the Examiner's reasoning in issuing the rejection, Applicant respectfully traverses the rejection. Applicant notes that Burns discloses a delta update technique. It contains a number of steps which leads to a delta file that consists of two types of commands: COPY and ADD. The COPY command reuses code already present in the old version, while it adds new data to be included in the delta file. So in order to make the smallest possible delta file, the goal of Burns is to use as many COPY commands and as few ADD commands as possible.

However, in a situation such as that addressed by the present invention, when part of the installed version is corrupted, for example, due to a faulty memory or virus, the type of delta file disclosed in Burns <u>cannot</u> be used. In Burns, the delta file is created with the assumption that the installed version is identical to the version used for creating the delta file. Applying such a delta file to a corrupt image would render the device inoperable.   To overcome the disadvantage of Burns, which is not disclosed or suggested by Burns in combination with Ferret and Blandford, is to detect all damaged blocks in the installed version and use this information to create a tailor-made delta update file. The algorithm for creating a tailor-made delta differs from the conventional method of determining the best combination of ADD and COPY commands. For a tailor-

made version a restrictive COPY command must be used so as to avoid reusing corrupt blocks. Neither Ferrat nor Blandford fail to overcome the deficiencies of Burns. Considering the operation of Burns, the use of a checksum in Blandford is irrelevant. Because Burns is not directed to finding corrupted portions of memory, using the checksum of Blandford is superfluous. It is similar to adding a warning indicator (Blandford) to a fail-safe system (Burns).

Further, unlike Ferrat, the present invention does not work on tables in a database, but directly on the flash memory (as claimed) where it updates the image of the stored data "in-place". A delta update in the present invention means that it does not transfer the complete image, and, more importantly refers to the fact that it reuses and reorganizes the data already on the flash memory of the mobile terminal through a series of steps transforming the existing image into the updated one.

It is impermissible to use hindsight to read back into the prior art, the teachings of the present application. In other words, independent claims 22 and 37-40 have been used as a blueprint to pick and chose elements from the prior art similar to the claim limitations therein, without regard to the manner in which those limitations have been combined to effect a novel and useful improvement to the state of the art.

Claims 32-36 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Burns, in view of Blandford and in further view of Kocher et al (US 6,289,455 hereafter Kocher). In this Office Action, the Examiner stated:

> In response to applicant's arguments filed 02/09/2009, the arguments have been considered but are deemed moot in light of the new grounds of rejection presented above which was necessitated by amendment.

Although the Ferrat is no longer cited as a reference, the Office Action is replete with references to sections of Ferrat. To the extent Applicant is able to discern the Examiner's reasoning in issuing the rejection, Applicant respectfully traverses the rejection. Applicant notes that Burns discloses a delta update technique. It contains a number of steps which leads to a delta file that consists of two types of commands:

COPY and ADD. The COPY command reuses code already present in the old version, while it adds new data to be included in the delta file. So in order to make the smallest possible delta file, the goal of Burns is to use as many COPY commands and as few ADD commands as possible.

However, in a situation such as that addressed by the present invention, when part of the installed version is corrupted, for example, due to a faulty memory or virus, the type of delta file disclosed in Burns cannot be used. In Burns, the delta file is created with the assumption that the installed version is identical to the version used for creating the delta file. Applying such a delta file to a corrupt image would render the device inoperable. To overcome the disadvantage of Burns, which is not disclosed or suggested by Burns in combination with Ferret, Blandford and Kocher, is to detect all damaged blocks in the installed version and use this information to create a tailor-made delta update file. The algorithm for creating a tailor-made delta differs from the conventional method of determining the best combination of ADD and COPY commands. For a tailor-made version a restrictive COPY command must be used so as to avoid reusing corrupt blocks. Ferret and Blandford fail to overcome the deficiencies of Burns. Considering the operation of Burns, the use of a checksum in Blandford is irrelevant. Because Burns is not directed to finding corrupted portions of memory, using the checksum of Blandford is superfluous. It is similar to adding a warning indicator (Blandford) to a fail-safe system (Burns).

Further, unlike Ferrat, the present invention does not work on tables in a database, but directly on the flash memory (as claimed) where it updates the image of the stored data "in-place". A delta update in the present invention means that it does not transfer the complete image, and, more importantly refers to the fact that it reuses and reorganizes the data already on the flash memory of the mobile terminal through a series of steps transforming the existing image into the updated one.

It is impermissible to use hindsight to read back into the prior art, the teachings of the present application. In other words, claims 32-38 have been used as a blueprint to pick and chose elements from the prior art similar to the claim limitations therein,

without regard to the manner in which those limitations have been combined to effect a novel and useful improvement to the state of the art.

CONCLUSION

In view of the foregoing remarks, the Applicant believes all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for all pending claims.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,

Michael Cameron
Registration No. 50,298

Date: ___August 12, 2009___

Ericsson Inc.
6300 Legacy Drive, M/S EVR 1-C-11
Plano, Texas 75024
(972) 583-4145
michael.cameron@ericsson.com